

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IOWA TELECOMMUNICATIONS SERVICES, INC., d/b/a IOWA TELECOM	DOCKET NO. SPU-02-18 (SPU-02-19)
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FINAL ORDER

(Issued May 19, 2003)

On October 18, 2002, Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom (Iowa Telecom), filed with the Utilities Board (Board) a petition for suspension or modification of long-term Local Number Portability (LNP) in the Hartley, Primghar, and Paullina, Iowa, exchanges. The petition was identified as Docket No. SPU-02-18. Also on October 18, 2002, Iowa Telecom filed a similar petition with respect to the Coon Rapids, Iowa, exchange. This petition was identified as Docket No. SPU-02-19.

On November 6, 2002, The Community Action Agency (TCA), whose service area includes the Hartley, Primghar, and Paullina exchanges, filed an answer to Iowa Telecom's petition in Docket No. SPU-02-18. Also on November 6, 2002, Coon Rapids Municipal Communications Utility (CRM CU), whose service area includes the Coon Rapids exchange, filed an answer to Iowa Telecom's petition in Docket No. SPU-02-19.

On December 6, 2002, the Board issued an order combining the two dockets and docketing them for investigation under Docket No. SPU-02-18. In the December 6, 2002, order, the Board assigned the combined docket to an administrative law judge (ALJ) to establish a procedural schedule, set a hearing date, and conduct the proceedings. On December 9, 2002, an order was issued by the ALJ granting intervenor status to TCA and CRM CU, setting a procedural schedule, and establishing a hearing date. On December 18, 2002, the ALJ issued an order granting intervenor status to the Iowa Association of Municipal Utilities (IAMU). On January 14, 2003, the ALJ issued an order granting intervenor status to LTDS Corporation (LTDS). The ALJ conducted the proceedings as scheduled and issued a proposed decision and order on April 15, 2003.

Subrule 199 IAC 7.8(2) requires that appeals from a proposed decision of the ALJ be filed within 15 days of the date the decision is issued. An appeal was timely filed by Iowa Telecom on April 30, 2003. No responses to the appeal were received. Iowa Telecom did not request an opportunity for the submission of briefs or oral argument.

Pursuant to 199 IAC 7.8(2)"d," the Board must issue a ruling on the issues to be decided on appeal within 20 days of the date of the notice of appeal. In this case, Iowa Telecom is not seeking an appeal of the findings of fact or conclusions of law in the ALJ's proposed decision. Rather, Iowa Telecom is seeking Board clarification

regarding Ordering Clauses 1 and 2 of the proposed decision and the related language in the body of the order.

Iowa Telecom objects to Ordering Clauses 1 and 2 insofar as they involve the direction and disclosure of financial arrangements between TCA and Iowa Telecom for interim number portability (INP), which Iowa Telecom contends was not an appropriate issue for resolution in this proceeding. While it may be true that Iowa Telecom and TCA did not directly address INP arrangements, the fact remains that permanent LNP was an issue in this case and INP is typically a critical step in the transition from a monopoly market (that has no number portability) and LNP. Thus, any decision regarding the timing and implementation of permanent LNP must, of necessity, consider INP. Therefore, the Board finds that the issue of INP was appropriate for consideration in this docket.

The Board, however, agrees with Iowa Telecom that the intended result of Ordering Clauses 1 and 2 in the proposed order can also be realized by recognition that Iowa Telecom is required to provide INP to TCA, on terms no less favorable than those being provided to CRM CU, until Iowa Telecom provides LNP to both TCA and CRM CU. Based on Iowa Telecom's assurances that it will provide INP to TCA as previously described, the Board will delete Ordering Clauses 1 and 2 from the proposed decision. Because the Board finds that this issue was appropriate for consideration, any language related to this issue in the body of the proposed decision will remain as such.

Iowa Telecom also objects to the effective date of the ALJ's proposed decision. The Board finds that it is not necessary to use this proceeding to decide the parameters of effective dates established by an ALJ in a proposed decision and order. For the purposes of this docket and for the requirements established in the proposed order, the Board will order that the effective date for the requirements of the proposed decision, which is now the final decision of the Board, shall be calculated from the date of the issuance of this final order rather than from the date of issuance of the proposed decision. As Ordering Clauses (1) and (2) have been eliminated, this modification of the effective date renders Iowa Telecom's objection moot.

IT IS THEREFORE ORDERED:

1. Ordering Clauses 1 and 2 of the Proposed Decision and Order issued on April 15, 2003, in Docket No. SPU-02-18, are deleted.
2. Ordering Clause 3 in the "Proposed Decision and Order" issued in this combined docket on April 15, 2003, is modified to state, "Iowa Telecom must provide LNP to the Coon Rapids exchange as soon as possible and no later than four months from the date of issuance of this final order."
3. Ordering Clause 4 in the "Proposed Decision and Order" issued in this combined docket on April 15, 2003, is modified to state, "In the Hartley, Primghar, and Paullina exchanges, Iowa Telecom must provide INP beginning immediately in accordance with the terms described in this order and must provide LNP within 18 months of the issuance of this final order."

4. All other provisions of the "Proposed Decision and Order" issued on April 15, 2003, in Docket No. SPU-02-18 (SPU-02-19) remain the same.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 19th day of May, 2003.